IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION No. 5:20-CV-144-BO(2)

DERRICK ALLEN,)	
Plaintiff,)	
v.)	<u>ORDER</u>
TOWN OF CARY'S POLICE)	
DEPARTMENT, POLICE CHIEF TONI DEZOMITS & OFFICER N. COFFEY,)	
Defendants.)	
Detendants.	,	

This cause comes before the Court on plaintiff's notice of interlocutory appeal. On September 30, 2020, defendants entered a notice of appeal of this Court's order adopting the Memorandum and Recommendation of United States Magistrate Judge Kimberly A. Swank and dismissing plaintiff's claims as frivolous. [DE 20].

"The filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982). Although issues remain for adjudication in this case which are not the subject of the appeal, because the interlocutory appeal concerns governmental and public official immunity, and the assertion of immunity is not frivolous, the Court in its discretion has determined that stay of the underlying proceedings in this Court is appropriate. *Apostol v. Gallion*, 870 F.2d 1335, 1338 (7th Cir. 1989); *see also Stewart v. Donges*, 915 F.2d 572, 576 (10th Cir. 1990).

Accordingly, this action is hereby STAYED pending resolution of the interlocutory appeal.

The Clerk is DIRECTED to remove this case from the Court's active docket during the pendency

of the appeal. The parties shall jointly notify this Court within 10 days of the filing of the Fourth Circuit's mandate of the posture of the case and the issues which remain for adjudication.

SO ORDERED, this _____ day of October, 2020.

TERRENCE W. BOYLE

CHIEF UNITED STATES DISTRICT JUDGE